
From: Diaz-Greco, Gilma M. (COE)
Sent: Tuesday, May 19, 2015 3:29 PM
To: Sanchez, Rodzandra (COE)
Subject: Jorge Gonzalez, Vice Mayor, North Bay Village (Voting Conflict) INQ 15-89

INQ 15-89 Gonzalez

From: Ethics (COE)
Sent: Tuesday, May 19, 2015 3:02 PM
To: 'Bradley Zappala'
Cc: Diaz-Greco, Gilma M. (COE)
Subject: INQ 15-89 Jorge Gonzalez, Vice Mayor, North Bay Village (Voting Conflict)

Mr. Zappala,

You have inquired in your capacity as an attorney with the Office of the Village Attorney for North Bay Village regarding whether Vice Mayor Jorge Gonzalez, a voting member of the Village Commission, may participate in and vote on an item coming before the board regarding the construction of a Baywalk in the Village. The request was made in light of the Vice Mayor's ownership of a condominium in one of the eight condominiums that stand to be affected by the Baywalk. Vice Mayor Gonzalez, according to information you have supplied, is the owner of a penthouse condominium in one of the eight affected buildings. There are 866 units located in the eight buildings, out of which the Vice Mayor is the owner of one unit. Additionally, the Vice Mayor is President of the Condominium Association for his building, but the association has taken no vote and no official position on the Baywalk.

Under the foregoing circumstances, I do not find that Vice Mayor Gonzalez has a voting conflict under Section 2-11.1(d) of the Miami-Dade Conflict of Interest and Code of Ethics Ordinance that would prevent him from voting on or participating in the discussion on this matter. It does not appear that he stands to be specially affected, to profit or be enhanced by this vote in a way that would distinguish him from the many other unit owners in the vicinity of this project. In situations like this, we have used the State of Florida guideline of a voting official's interest being more than 1-2% of the affected persons. Based on the information provided, Vice Mayor Gonzalez's personal stake in the outcome of this vote would not seem to be different from that of the other 865 unit owners in the area, which places him well under that threshold.

An additional issue involves whether he is the officer or director of an entity affected by the vote, given his status as President of his Condominium Association. If that Association had taken a public stand on the project, or be in a position to be specially affected by it, as an officer of the organization he might have a conflict under Section 2-11.1(d)(i). However, given the very small size of the municipality and assuming that the Association has no special stake in this apart from the other associations in the area, and has not gotten involved in lobbying on this one way or the other, then I do not see his position as disqualifying him from the vote. It is likely that many people in the community, including those who do not reside in the nearby condominiums, would also be affected in some way by this project. Vice Mayor Gonzalez should, however, be attentive regarding any upcoming votes dealing with the Baywalk that could have a more direct effect on his building or on his unit.

The County Code of Ethics provides only a minimum standard of ethics. If an official, due to some special relationship or situation, feels that he or she cannot fairly represent the public and make an independent judgment on a matter apart from a personal financial or other interest, then he or she should consider recusal from the vote.

Sincerely,

Joseph M. Centorino
Executive Director and General Counsel
Miami-Dade Commission on Ethics and Public Trust

From: Bradley Zappala [<mailto:BZappala@SwitkesLaw.com>]
Sent: Tuesday, May 19, 2015 12:51 PM
To: Ethics (COE)
Subject: RE: Request for Advisory Opinion

Mr. Centorino,

There has been no vote by the Board to our knowledge and thus no action recommended at this time.

Best,

Bradley F. Zappala, Esq.
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From: Ethics (COE) [<mailto:ethics@miamidade.gov>]
Sent: Tuesday, May 19, 2015 10:21 AM
To: Bradley Zappala
Subject: RE: Request for Advisory Opinion

Mr. Zappala,

I understand that there may not be unanimity in the Condominium Association, but is it correct that there has been no vote taken or action recommended by that board?

Joe Centorino

From: Bradley Zappala [<mailto:BZappala@SwitkesLaw.com>]
Sent: Monday, May 18, 2015 4:40 PM
To: Ethics (COE)
Subject: RE: Request for Advisory Opinion

Mr. Centorino,

As an initial matter, I should clarify that the Baywalk itself was approved by a previous commission years ago, however, there was no action taken towards its construction. Recently, preparations have begun to put out an RFP for architectural and engineering plans for construction of the Baywalk, and there are several undecided matters set to come before the commission for discussion and voting, including issues regarding the width of the Boardwalk, composition of materials for its construction, design, hours of operation, lighting, et cetera. Certain members of the community have questioned whether the Vice Mayor should recuse himself due to his ownership of a unit in one of the affected Condominium buildings and his position as President of that building's Condominium Association.

In answer to your questions, there are approximately 866 units in the 8 condominium buildings that will be affected by the Baywalk. The Vice Mayor owns a penthouse unit in his building. To my knowledge, the Condominium Association for which the Vice Mayor is President has not publicly stated a unified position regarding the Baywalk.

As the Village Commission is holding a Special Meeting regarding these and related matters on Thursday 5/21/15, a response prior to that time would be greatly appreciated. Thank you in advance for your attention to this inquiry and please do not hesitate to contact me if you have any further questions.

Best Regards,

Bradley F. Zappala, Esq.

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From: Ethics (COE) [<mailto:ethics@miamidade.gov>]

Sent: Monday, May 18, 2015 11:50 AM

To: Bradley Zappala

Subject: RE: Request for Advisory Opinion

Mr. Zappala,

In connection with this inquiry, it would be helpful for us to know the number (or approximate number) of condominium units affected by the linear Baywalk and how the Vice Mayor's interest in the issue, by virtue of his owning one of the affected units, compares to the other units affected. Additionally, it would be helpful to know if the Condominium Association, of which he is President, has taken a stand on the Bayfront and has publicly stated its position in favor or opposed.

Joe Centorino

From: Bradley Zappala [<mailto:BZappala@SwitkesLaw.com>]

Sent: Monday, May 11, 2015 8:05 PM

To: Ethics (COE)

Cc: Robert L. Switkes; David Acosta

Subject: Request for Advisory Opinion

Dear Sir or Madame:

I am writing to request an Advisory Opinion on behalf of North Bay Village. A linear Baywalk has been proposed in North Bay Village that will, if approved, be constructed to run along the waterfront behind at least 8 condominium buildings in the Village. As such, the issue affects hundreds of units and potentially thousands of residents in the Village, including the Vice Mayor, who owns a unit in one of the aforementioned condominium buildings and is the President of the Association for that building. Although the Vice Mayor is just one of a large number of Village residents that will be affected, is he required to recuse himself from discussions and votes on the Baywalk and related matters, and if so, to what extent?

Thank you in advance,

Bradley F. Zappala, Esq.

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